

#3 2-6-13

SENATE BILL No. 54

By Committee on Federal and State Affairs

1-22

1 AN ACT concerning the state board of technical professions; amending
2 K.S.A. 74-7001, 74-7004, 74-7005, 74-7007, 74-7010, 74-7016, 74-
3 7019, 74-7024, 74-7032, 74-7033, 74-7035, 74-7038, 74-7039, 74-
4 7040 and 75-5802 and K.S.A. 2012 Supp. 19-216c, 19-1401a, 72-
5 6760d, 74-7003, 74-7009, 74-7013, 74-7021, 74-7022, 74-7023, 74-
6 7025, 74-7026, 74-7029, 74-7031, 74-7034, 74-7036, 74-7046, 74-
7 99b16, 75-1251, 75-37,142, 76-786 and 76-7,126 and repealing the
8 existing sections; also repealing K.S.A. 74-7037 and 74-7042 and
9 K.S.A. 2012 Supp. 74-7041.

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. K.S.A. 2012 Supp. 19-216c is hereby amended to read as
13 follows: 19-216c. (a) "Alternative project delivery" means an integrated
14 comprehensive building design and construction process, including all
15 procedures, actions, sequences of events, contractual relations, obligations,
16 interrelations and various forms of agreement all aimed at the successful
17 completion of the design and construction of buildings and other structures
18 whereby a construction manager or general contractor or building design-
19 build team is selected based on a qualifications and best value approach.

20 (b) "Ancillary technical services" include, but shall not be limited to,
21 geology services and other soil or subsurface investigation and testing
22 services, surveying, adjusting and balancing air conditioning, ventilating,
23 heating and other mechanical building systems and testing and consultant
24 services that are determined by the agency to be required for the project.

25 (c) "Architectural services" means those services described by
26 ~~subsection (c) of as the~~ "practice of architecture," as defined in K.S.A. 74-
27 7003, and amendments thereto.

28 (d) "Best value selection" means a selection based upon objective
29 criteria related to price, features, functions, life-cycle costs and other
30 factors.

31 (e) "Board" means the board of county commissioners or its
32 designees and the board as defined in K.S.A. 80-2501, and amendments
33 thereto.

34 (f) "Building construction" means furnishing labor, equipment,
35 material or supplies used or consumed for the design, construction,
36 alteration, renovation, repair or maintenance of a building or structure.

Proposed Amendments to SB 54
Committee on Federal and State Affairs
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Prepared by Mike Heim
Office of Revisor of Statutes

1 corporation, limited liability company, limited liability partnership,
2 corporate partnership or other legal entity created by law.

3 (g) "Common technical services" means those services which may be
4 offered or performed by any licensee, are performed within the licensee's
5 defined scope of practice and are further described as follows:

6 (1) Representation of clients in connection with contracts entered into
7 between clients and others;

8 (2) coordination of elements of technical submissions prepared by the
9 licensee's consultants;

10 (3) administration of contracts for construction;

11 (4) observation of construction for general conformance with
12 requirements of approved construction documents or technical
13 submissions prepared by a licensee;

14 (5) performing acts of consultation and technical investigation;

15 (6) providing expert technical testimony or testimony evaluation;

16 (7) performing technical evaluations and research;

17 (8) teaching in a college or university offering an accredited
18 technical professional curriculum recognized by the board; and

19 (9) providing responsible supervision of these services, insofar as
20 such services involve safeguarding the health, safety, property and welfare
21 of the public.

22 (h) "Construction administration" means the provision of technical
23 professional services during construction by licensees, or persons under
24 the licensee's responsible supervision, which act to confirm substantial
25 compliance with the requirements and provisions of applicable technical
26 documents prepared by the licensee or under the licensee's responsible
27 supervision. Such technical professional services include, but are not
28 limited to: Assisting with bidding or negotiation processes; reviewing and
29 acting upon shop drawings and other submittals; providing clarification
30 or interpretation of the licensee's technical documents; evaluating general
31 progress of construction; observing or evaluating completed construction;
32 and assisting the client in matters related to the licensee's technical
33 professional expertise. Construction administration services do not
34 include management of, or responsibility for, the contractor's construction
35 activities, means or methods.

36 (i) "~~Ethical marketing of professional services~~" means the solicitation
37 or offer by a licensee, either as an individual or on behalf of a business
38 entity or by a business entity, to provide professional services for a
39 potential governmental client, based on the licensee's professional
40 qualifications, technical ability, specialized training and ability to provide
41 the services in a timely manner, with the fee for such services entering into
42 the discussions only after such governmental client has identified the
43 licensee who is most qualified to provide the services required. For the

Strike

~~purpose of this subsection, if an individual who is not a licensee is acting on behalf of a business entity, the business entity shall be responsible for the actions of the non-licensee.~~ Strike

~~(f) "Government client" means any state, county or municipal governmental entity including, but not limited to, any department, agency, authority, planning district, board, commission, office or institution thereof, and any school district, college, university and any individual acting under authority to represent any such governmental entity.~~ (f)

~~(4) "Landscape architect" means a person who is qualified to engage in the practice of landscape architecture and who is licensed by the board to practice landscape architecture as provided in K.S.A. 74-7001 et seq., and amendments thereto.~~ (k)

~~(1) "Landscape architecture" or "practice of landscape architecture" means performing professional landscape architectural services including the following: Common technical services, as defined in subsection (g); consultation, planning, designing or responsible supervision in connection with the development of land areas for preservation and enhancement; the development of sustainable designs and technology; preparation, review and analysis of master plans for land use and development; production of overall site development and land enhancement plans, grading and drainage plans, irrigation plans, planting plans and construction details; specifications, cost analysis and reports for land development; and the designing of land forms and non-habitable structures for aesthetic and functional purposes, such as pools, walls and structures for outdoor living spaces, for public and private use. The practice of landscape architecture also encompasses the determination of proper land use as it pertains to: Natural features; ground cover, use, nomenclature and arrangement of plant material adapted to soils and climate; naturalistic and aesthetic values; settings and approaches to structures and other improvements; soil conservation; erosion control; and the development of outdoor space in accordance with ideals of human use and enjoyment.~~

~~(2) The term "landscape architecture" or "practice of landscape architecture" shall not include those services specifically identified in the definition of "architecture," "professional engineering," "professional geology" and "professional surveying" except for those services which are included in the term "common technical services," as defined in subsection (g).~~ (l)

~~(4) "License" means a license to practice the technical professions granted under K.S.A. 74-7001 et seq., and amendments thereto.~~

~~(d) "Architect" means a person whose practice consists of rendering services or performing creative work which requires architectural education, training and experience, including services and~~

1 licensed under this act K.S.A. 74-7001 et seq., and amendments thereto, or
 2 issued a certificate of authorization under K.S.A. 74-7036, and
 3 amendments thereto, shall be maintained by the executive director. The
 4 roster shall also specify the branch of the technical professions in which
 5 each such person is licensed or authorized to practice. Copies of the roster
 6 may be placed, at the discretion of the board, on file with the secretary of
 7 state and with the clerk of each county in this state and shall be furnished
 8 to such other persons as determined by the board. Copies shall be
 9 furnished to members of the public upon request. The board may charge
 10 and collect a fee for copies furnished to members of the public in an
 11 amount to be fixed by the board and approved by the director of accounts
 12 and reports under K.S.A. 45-219, and amendments thereto, in order to
 13 recover the actual costs incurred. All fees collected under this section shall
 14 be remitted to the state treasurer in accordance with the provisions of
 15 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
 16 remittance, the state treasurer shall deposit the entire amount in the state
 17 treasury to the credit of the technical professions fee fund shall be
 18 provided in accordance with the Kansas open records act, K.S.A. 45-215
 19 et seq., and amendments thereto.

20 Sec. 11. K.S.A. 2012 Supp. 74-7013 is hereby amended to read as
 21 follows: 74-7013. (a) The board may adopt all rules and regulations,
 22 including rules of professional conduct, which are necessary for
 23 performance of its powers, duties and functions in the administration of
 24 the provisions of K.S.A. 74-7001 et seq., and amendments thereto.

25 (b) The board, through rules and regulations, may require continuing
 26 education as a condition for license renewal or reinstatement and may
 27 exempt persons from such continuing education requirements.

28 ~~(c) The board may adopt rules and regulations concerning the ethical
 29 marketing of professional services by licensees.~~

30 ~~(d) The board may adopt rules and regulations concerning cancelled,
 31 inactive and emeritus licensure status.~~

32 ~~(e) The board shall adopt rules and regulations prescribing minimum
 33 standards for boundary surveys, mortgage title inspection, American land
 34 title association surveys and such other surveys as necessary to control the
 35 quality of surveying in the state of Kansas.~~

36 Sec. 12. K.S.A. 74-7016 is hereby amended to read as follows: 74-
 37 7016. (a) The board shall keep a record of its proceedings, and a register of
 38 all applications for license, which register shall show:

- 39 (1) The name and residence of each applicant;
- 40 (2) the date of the application;
- 41 (3) the place of business of such applicant;
- 42 (4) the applicant's educational and other qualifications;
- 43 (5) whether or not an examination was required;

Strike

(c)

(d)